



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of
Koichi SUZUKI et al.

Serial No. 10/573,794

Filed March 28, 2006

ROYAL JELLY PEPTIDE AND
COMPOSITION CONTAINING THE SAME
[Corresponding to PCT/JP2004/014544
Filed September 27, 2004]

: Confirmation No. 6861

: Mail Stop: PCT

: Attorney Docket No. 2006_0470A

THE COMMISSIONER IS AUTHORIZED
TO CHARGE ANY DEFICIENCY IN THE
FEES FOR THIS PAPER TO DEPOSIT
ACCOUNT NO. 23-0975

**SUPPLEMENTAL REMARKS REGARDING PETITION UNDER 37 C.F.R. 1.137(b)
FOR REVIVAL OF UNINTENTIONALLY ABANDONED PATENT APPLICATION**

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:


Per a telephone call recently received from the PCT legal branch, we have been informed that a diskette of the Sequence Listing was unable to be located and therefore the Petition for Revival, submitted March 7, 2008 could not be decided. Applicants note that a diskette with the revised Sequence Listing, identical to the paper copy of Sequence Listing submitted March 7, 2008, was submitted. Proof of this submission is shown by the attached postcard dated March 7, 2008.

Also, for the convenience of the Office, attached herewith is a copy of the entire reply to the Notice of Defective Response that was submitted March 7, 2008.

Favorable action is respectfully requested.

Respectfully submitted,

Koichi SUZUKI et al.

By 
William R. Schmidt, II
Registration No. 58,327
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June 13, 2008

Seq. Disk
IPW



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: CALDWELL, Wilbur

Ser. No. 11/581,684

Filed: 10/16/2006

Art Unit: 3742

TITLE SPOT WARMING DEVICE AND METHOD

Examiner: Paschall, Mark H

Assistant Commissioner for Patents
PO Box 1450
Alexandria VA 22313

AMENDMENT

Dear Sir:

In response to the Office Action mailed on March 17, 2008, please amend the application as follows:

IN THE CLAIMS:

Please amend claims 1 and 13 as set forth below:

(TWICE AMENDED) 1. A method ~~of making a spot warming device,~~
~~the method~~ including the steps of:

providing a pliable, thin metal plate;

~~providing a length of wire having a pair of ends;~~

adhering ~~the~~ a length of wire to a first face of the metal plate, the wire having a
pair of ends;

providing ~~a foil-~~ an insulation product ~~with a central portion~~ comprising
multicellular film for trapping insulative gases and a layer of polyethelene coating over
the multicellular film, the film laminated on its top and bottom by a polyethylene
~~coated by~~ and a thin layer of foil on a top face;

positioning engaging the top face of the insulation product into contact with foil
~~insulation product atop the first face and the wire, thereby positioning the wire between~~
the first face of the metal plate and the top face of the insulation product;

enveloping the plate and ~~foil~~ insulation product within a removable cover.

(ORIGINAL) 2. The method as in claim 1, further comprising the steps of
connecting a battery to each of the ends of the wire.

(PREVIOUSLY AMENDED) 3. The method as in claim 1, wherein
the adhering step includes the steps of:

positioning a first layer of two-sided tape on the first face of the metal
plate; and,

pressing the wire onto the two-sided tape.

(ORIGINAL) 4. The method as in claim 3, further comprising the step of positioning a second layer of two-sided tape on top of the first layer.

(ORIGINAL) 5. The method as in claim 4, wherein the wire is positioned between the first and second layers of two-sided tape.

(PREVIOUSLY AMENDED) 6. The method as in claim 1, further comprising the steps of

- positioning a first double-layer of two-sided tape on the first face of the plate; and,
- placing the wire onto the first double-layer of two-sided tape;
- positioning a second double-layer of two-sided tape on top of the first double-layer of two-sided tape.

(ORIGINAL) 7. The method as in claim 1, further comprising the step of

- positioning the wire so that each of the pair of ends extends outwardly from the metal plate, and
- connecting each of the ends to a respective terminal of a battery.

(ORIGINAL) 8. The method as in claim 1, further comprising the steps of

- connecting the ends of the wire to a battery; and,
- positioning a switch adjacent an edge of the thin metal plate; and,
- selectively activating the spot warming device by tripping the switch.

(ORIGINAL) 9. The method as in claim 8, wherein,

- the switch is a three-way switch having a
- first position wherein the switch creates an open circuit; and,

a second position wherein the switch creates a circuit wherein current is directed through half of the wire; and,

a third position wherein the switch creates a circuit wherein current is directed through an entire length of the wire.

(ORIGINAL) 10. The method as in claim 1, further comprising the step of selecting the metal plate of aluminum.

(ORIGINAL) 11. The method as in claim 2, further comprising the step of enveloping the battery within the cover.

(ORIGINAL) 12. The method as in claim 2, further comprising the step of providing a fuse in electrical communication with the battery and the wire; and,

configuring the fuse to create an open circuit when the device reaches a selected temperature.

(TWICE AMENDED) 13. A ~~warming~~ device comprising:
a pliable, thin metal plate;
a length of wire having a pair of ends, the wire adhered to a first face of the metal plate;

~~foil insulation product positioned atop to engage both the first face and the wire,~~
~~the foil insulation product having a central portion comprising multicellular plastic film~~
~~for trapping insulative gases, a polyethylene coating over the plastic film, and, and~~
~~wherein the film is laminated on its top and bottom by a polyethylene coated by a thin~~
~~layer of foil covering a top face of the insulation product;~~

a cover enveloping the metal plate, wire, and ~~foil~~ insulation product.

(ORIGINAL) 14. The device as in claim 13, further comprising a battery connected to the ends of the wire.

(ORIGINAL) 15. The device as in claim 13, further comprising
two-sided tape on the first face of the thin metal plate.

(ORIGINAL) 16. The device as in claim 15, further comprising a second layer of two-sided tape on top of the first layer.

(ORIGINAL) 17. The device as in claim 16, wherein the wire is positioned between the first and second layers of two-sided tape.

(ORIGINAL) 18. The device as in claim 13, further comprising
a first double-layer of two-sided tape adhered to the first face of the metal plate;
a second double-layer of two-sided tape on top of the first double-layer of two-sided tape; and wherein,
the wire is positioned between the first double layer and the second double layer.

(ORIGINAL) 19. The device as in claim 13, further comprising a battery; wherein,
the wire is positioned so that each of its pair of ends extends outwardly from the metal plate, and wherein, the pair of ends is connected to respective terminals of the battery.

(ORIGINAL) 20. The device as in claim 19, further comprising a three-way switch positioned adjacent an edge of the metal plate,
the switch is a three-way switch having a

first position wherein the switch creates an open circuit; and,
a second position wherein the switch creates a circuit wherein
current is directed through half of the wire; and,
a third position wherein the switch creates a circuit wherein current
is directed through an entire length of the wire.

REMARKS

In the Specification

The Office Action correctly points to several regulations and MPEP sections that provide a recommendation for the structure of a specification. The preamble language, however, indicates that the specification “*should include ...*” these enumerated sections. The cited sections, however, do not state that the specification “... shall include...” these provisions.

Rather, the statutory *requirements* of the specification are met by the current format. In its current form, the best mode requirement and enablement requirement are met by the specification.

Reconsideration of the rejections of the specification is requested.

In the Claims

The examiner pointed out numerous informalities that gave rise to rejections under 35 USC §112¶2. The above-noted amendments remove any ambiguity in the claims without limiting the breadth of the claimed subject matter, as the amendments herein made neither cede nor disclaim any subject matter that fell within the scope of the claims, as filed.

For example, the Office Action pointed out that the preamble claimed a warming device, yet it was unclear which claimed limitation(s) provided warming. As amended, the preamble no longer cites the warming function of the device. Therefore, this disparity has been removed and the rejection overcome.

Additionally, the Office Action alleged that the claims fail to distinctly claim the part or portion(s) of the insulation product that engages the wire and plate. The amendments to claims 1 and 13 clarify the invention and remove this alleged anomaly.

Specifically, claim 1 requires, inter alia, the step of engaging the top face of the insulation product into contact with the first face and the wire, thereby positioning the wire between the first face of the metal plate and the top face of the insulation product. Further, claim 1 requires a thin layer of foil on the top face of the product. Therefore, Claim 1 clearly and distinctly sets forth the relationship of the claimed method steps. Additionally, claim 13 further also sets forth the relationship of these claimed aspects of the inventive device.

Consequently, withdrawal of this aspect of the rejection is requested.

The Office Action alleges that the elements recited in the claims are incomplete and/or cannot function when the invention is limited to these limitations. However, it is well-settled that the modifier “comprising,” as used in the preamble of the independent claims 1 and 13, denotes that other items MAY be included in addition to those positively recited. The term “comprising” as it is used in the preamble will notify one having skill in the art that additional limitations, components, or steps are required parts of the invention, and additional aspects may be present, even if unclaimed.

The Office Action also alleges that the claimed elements cannot function together. Included herewith and submitted under seal for the examiner’s inspection is the Applicant’s product, which is a functioning article. Independent claims 1 and 13 read

directly upon the included functioning article, which functions as described in the specification.

The Applicant reserves the right to expunge the submitted product from the record once the examiner has inspected it to ascertain that the claimed combination of elements comprise a working, functioning method and device.

Conclusion

For the foregoing reasons, the Applicant respectfully requests that the above-noted application be allowed.

Respectfully Submitted,



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Kansas City, KS 66110
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ATTORNEY FOR APPLICANT

CERTIFICATE OF MAILING under 37 CFR §1.8

It is hereby certified that the above and foregoing document was deposited in first-class mail, postpaid and properly addressed to Assistant Commissioner for Patents, PO Box 1450, Alexandria, VA 22313 on June 11, 2008.



David E. Herron II #46467

ATTY DOCKET #: 2006_0470A

Due Date:

Confirmation No. 6861

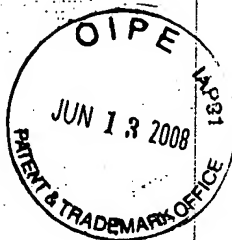
OUR REF: 2006_0470A/WRS/00653

Applicant: Koichi SUZUKI et al.

Serial No.: 10/573,794

Filing Date: March 28, 2006

Title: ROYAL JELLY PEPTIDE AND COMPOSITION CONTAINING THE SAME



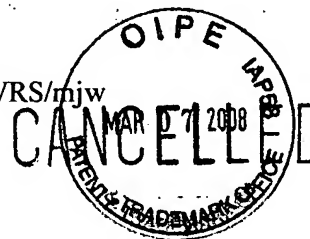
Receipt of the following papers is acknowledged:

1. Patent Office Fee Transmittal Form (in duplicate)
2. Petition to revive unintentionally abandoned application
3. Preliminary Amendment
4. Sequence Listing (paper and CRF)
5. Copy of Notification of Defective Response
6. Check in the amount of \$1540.00

Date: March 7, 2008

Attorney: WRS/mjw

Check No. 85047



COPY

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE



In re application of

: Confirmation No. 6861

Koichi SUZUKI et al.

: Attorney Docket No. 2006_0470A

Serial No. 10/573,794

:

Filed March 28, 2006

:

COPY

ROYAL JELLY PEPTIDE AND

COMPOSITION CONTAINING THE SAME : Mail Stop: Missing Parts

PRELIMINARY AMENDMENT

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

In response to the Notification of Defective Response mailed September 12, 2007,
Applicants herein provide the following amendments and remarks.

THE COMMISSIONER IS AUTHORIZED
TO CHARGE ANY DEFICIENCY IN THE
FEES FOR THIS PAPER TO DEPOSIT
ACCOUNT NO. 23-0975

AMENDMENTS TO THE SPECIFICATION

In the Sequence Listing:

Please replace the Sequence Listing of record with the attached revised substitute Sequence Listing.

REMARKS

The foregoing amendments are presented to place the application in compliance with the Sequence Rules under 37 C.F.R. § 1.821-1.825.

In the Notice, it was indicated that the paper or compact disc copy of the Sequence Listing is not the same as the computer readable form ("CRF") of the Sequence Listing as required under US practice.

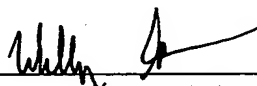
In reply, enclosed herewith is a substitute Sequence Listing in both paper and computer readable form as required by 37 C.F.R. § 1.821(c) and (e). The content of the paper and computer readable copies are the same and no new matter has been added. Amendments directing its entry into the specification have also been incorporated herein.

In view of the foregoing, it is believed that each requirement set forth in the Notice has been satisfied, and that the application is now in compliance with the Sequence Rules under 37 C.F.R. § 1.821-1.825.

Favorable action on the merits is respectfully requested.

Respectfully submitted,

Koichi SUZUKI et al.

By: 

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Washington, D.C. 20006-1021
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Facsimile (202) 721-8250
March 7, 2008



SEQUENCE LISTING

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SUZUKI, Koichi
SAKAI, Masato

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